

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**REGINALD CLEMONS, RICHARD)
D. CLAY, JEFFREY FERGUSON and)
RODERICK NUNLEY,)
Plaintiffs,)
v.) **No. 4:06-CV-656-JCH**
LARRY CRAWFORD, JAMES D.)
PURKETT, TERRY MOORE, JOHN)
DOE 1, JOHN DOE 2 and JOHN DOES)
3 - 10,)
Defendants.)**

ORDER AND MEMORANDUM

This matter is before the Court upon review pursuant to 28 U.S.C. § 1915A. Title 28 U.S.C. § 1915A provides that the "court shall review before docketing if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity." The Court is to dismiss the complaint, or any portion, if it is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief.

Moreover, 42 U.S.C. § 1997e(g)(2) provides that the Court may require any defendant to reply to a complaint brought by a prisoner pursuant to 42 U.S.C. § 1983 or any other federal law if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

A review of the complaint indicates that plaintiffs' claim that the current procedure for lethal injection utilized by the defendants to inflict the punishment of death violates their rights under the Eighth and Fourteenth Amendments survives review under 28 U.S.C. § 1915(e)(2)(B) and should not be dismissed at this time. Therefore, the Court will order that the defendants reply to the complaint.

In accordance with the foregoing,

IT IS HEREBY ORDERED that, pursuant to 42 U.S.C. § 1997e(g)(2), after being properly being served or waiving service of process, the defendants shall reply to the complaint within the time provided by the applicable provisions of Rule 12(a) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that plaintiffs shall include a copy of this order when either serving the complaint upon the defendants or requesting that the defendants waive service.

IT IS FURTHER ORDERED that, pursuant to the Court's differentiated case management system, this case is assigned to Track 5B (standard prisoner actions).

Dated this 24th day of April, 2006.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE